

## § 1.118

disclosure is maintained in accordance with 5 U.S.C. 552a(c), of the occurrence and substance of the correction or amendments.

(e) If an agency determines not to grant all or any portion of a request for correction or amendment, it shall:

(1) Comply with paragraph (d) of this section with regard to any correction or amendment which is made;

(2) Advise the requester of its determination and the reasons for the determination not to grant all or a portion of the request for a correction or amendment;

(3) Inform the requester that he or she may appeal this determination to the head of the agency which maintains the system of records; and

(4) Describe the procedures for making such an appeal, including the title and business address of the official to whom the appeal is to be addressed.

(f) In the event that an agency receives a notice of correction or amendment to information in a record contained in a system of records which it maintains, it shall comply with paragraphs (d)(2) and (3) of this section in the same manner as if it had made the correction or amendment itself.

[40 FR 39519, Aug. 28, 1975, as amended at 62 FR 33981, June 24, 1997]

### **§ 1.118 Appeal of initial adverse agency determination on correction or amendment.**

(a) Any individual whose request for correction or amendment under § 1.116 is denied, and who wishes to appeal that denial, shall address such appeal to the head of the agency which maintains the system of records to which the request relates, in accordance with the procedures set forth in the agency's initial denial of the request.

(b) The head of each agency shall make a final determination with regard to an appeal submitted under paragraph (a) of this section not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests a review, unless, for good cause shown, the head of the agency extends this 30-day period and so notifies the requester, together with an estimate of the date on which a final determination will be made. Such exten-

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sion should be utilized only in exceptional circumstances and should not normally exceed 30 days. The delegation of authority set forth in this paragraph may not be redelegated.

(c) In conducting a review of an appeal submitted under paragraph (a) of this section, the head of an agency shall be guided by the requirements of 5 U.S.C. 552a(e)(1) and (5).

(d) If the head of an agency determines to grant all or any portion of an appeal submitted under paragraph (a) of this section, the head of the agency shall inform the requester and the agency shall comply with the procedures set forth in § 1.117(d)(2) and (d)(3).

(e) If the head of an agency determines in accordance with paragraph (c) of this section not to grant all or any portion of an appeal submitted under paragraph (a) of this section, the head of the agency shall inform the requester:

(1) Of this determination and the reasons for the determination;

(2) Of the requester's right to file a concise statement of the requester's reasons for disagreeing with the agency's decision;

(3) Of the procedures for filing such a statement of disagreement;

(4) That such statements of disagreements will be made available to anyone to whom the record is subsequently disclosed, together with (if the agency deems it appropriate) a brief statement by the agency summarizing its reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided with a copy of the statement of disagreement, together with (if the agency deems it appropriate) a brief statement of the agency's reasons for refusing to amend the record, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and

(6) Of the requester's right to seek judicial review of the agency's determination in accordance with 5 U.S.C. 552a(g). The agency shall insure that any statements of disagreement submitted by a requester are handled in accordance with paragraphs (e)(4) and (5) of this section.

[40 FR 39519, Aug. 28, 1975, as amended at 62 FR 33981, June 24, 1997]